

1 THERESA L. KITAY (SBN 237311)
tkitay@bakerdonelson.com
2 BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC
3 3414 Peachtree Road, NE, Suite 1500
Atlanta, GA 30326
4 Telephone: 404-577-6000
Facsimile: 404-221-6501
5 *Attorney for Defendants 6th/Vermont*
RX Associates, LLC and Essex Property Trust, Inc.

6
7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **SOUTHERN DIVISION**
11

12 JOSE PERALES, an individual,
13 Plaintiff,

14 v.

15 6TH/VERMONT RX ASSOCIATES,
16 LLC, a California limited liability
company; ESSEX PROPERTY TRUST,
17 INC., a Maryland corporation, and DOES
1-10,

18 Defendants.
19
20
21

Case No. 8:23-cv-02051

**DEFENDANTS' NOTICE OF
REMOVAL OF CIVIL
ACTION PURSUANT TO 28
U.S.C. SECTIONS 1332, 1441,
AND 1446**

REMOVAL FILED:
NOVEMBER 1, 2023

[Originally Orange County Superior
Court, Case No. 30-2023-
01349593-CU-CR-NJC]

22 **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**
23

- 24 1. Pursuant to Title 28, United States Code, Section 1331, 1367, 1441, and 1446,
25 Defendants 6th/Vermont RX Associates, LLC ("Vermont RX") and Essex
26 Property Trust, Inc. ("Essex") (collectively Defendants) remove the above-
27
28

entitled action from the Superior Court for Orange County, California to the United States District Court for the Central District of California.

2. This Court has original jurisdiction over this action under 28 U.S.C. § 1331 because this action involves a claim that arises under the Constitution, laws, or treaties of the United States.
3. On September 12, 2023, Plaintiff filed a Verified Complaint in the Superior Court entitled *Jose Perales v. 6th/Vermont RX Associates, LLC, Essex Property Trust, Inc., and Does 1-10*, Case No. 30-2023-01349593-CU-CR-NJC.
4. The Complaint purports to state causes of action against Defendants for violations of the: (1) Federal Fair Housing Act; (2) California Fair Employment and Housing Act; (3) California Unruh Civil Rights Act; and (4) California Disabled Persons Act.
5. On October 2, 2023, Plaintiff served Defendants Vermont RX and Essex with the Complaint and Summons. The unidentified Doe Defendants have not been served.
6. In accordance with Section 1446(a), attached as **Exhibits 1-5**, Defendants file herewith copies of all Superior Court Actions filing to date.
7. A Notice to the State Court of Removal will be filed with the Superior Court and served on Plaintiff through his attorney, as required under 28 U.S.C. § 1446(d). Likewise, Defendants are providing written notice of the filing of this

1 Notice of Removal to Plaintiff, as evidenced by the Certificate of Service. 28
2 U.S.C. § 1446(d). In addition, in accordance with Local Rule 7.1-1, a Notice
3 of Interested Parties is being filed concurrently with this Notice of Removal.
4

5 8. An action is removable if a federal court has original jurisdiction. 28 U.S.C.
6 § 1441(a-b). A federal court has original jurisdiction under two circumstances:
7
8 (1) where the controversy involves a federal question, or (2) where there is
9 diversity of citizenship between the parties and the amount in controversy
10 exceeds \$75,000. 28 U.S.C. §§ 1331, 1332.
11

12 9. Here, this Court has original federal question jurisdiction because Plaintiff
13 attempts to assert a claim under the Fair Housing Amendments Act of 1988
14 (“FHA”), 42 U.S.C. § 3601 *et seq.* (See Compl. at ¶¶ 45-52). Accordingly, the
15 Court has original federal question jurisdiction. This action is removable.
16

17 10. Additionally, Plaintiff purports to bring state law claims arising out of the
18 same facts and circumstances of Plaintiff’s claims under the FHA. (See
19 Compl. at ¶¶ 53-81). This Court can exercise supplemental jurisdiction over
20 Plaintiff’s state law claims, and such exercise is warranted under these
21 circumstances to prevent the needless waste of resources of the court systems
22 and litigants. See 28 U.S.C. ¶ 1367(a); *City of Chicago v. Int’l Coll. Of*
23 *Surgeons*, 522 U.S. 156, 164-65 (1997) (“the federal courts’ original
24 jurisdiction over federal questions carries with it jurisdiction over state law
25
26
27
28

1 claims that derive from a common nucleus of operative fact, such that the
2 relationship between the federal claim and the state claim permits the
3 conclusion that the entire action before the court comprises but one
4 constitutional case.”) (internal citations omitted). All of Plaintiff’s claims are
5 factually interdependent because they arise under the same factual allegations,
6 and the Court should exercise supplemental jurisdiction over Plaintiff’s state
7 law claims.
8

9
10 11. Plaintiff purportedly served Defendants on October 2, 2023. A notice of
11 removal of a civil action is required to be filed within thirty (30) days after the
12 receipt by the defendant, through service, of a copy of the initial pleading
13 setting forth the claim for relief upon which such action or proceeding is
14 based. 28 U.S.C. § 1446(b). Thirty days after purported service is November
15 1, 2023. This removal is timely.
16
17

18 12. The Superior Court for Orange County, California is a state court within this
19 District. Therefore, venue is proper. 28 U.S.C. § 1441(a).
20

21 WHEREFORE, Defendants requests that this Court make any and all orders
22 necessary to affect the removal of this case from the Superior Court of the
23 State of California for Orange County to effect and prepare in this Court a true
24 record of all proceedings that may have been had in said state court.
25
26
27
28

1 DATED: November 1, 2023

2 BAKER DONELSON BEARMAN
3 CALDWELL & BERKOWITZ, PC

4 By: /s/ Theresa L. Kitay

5 THERESA L. KITAY
6 *Attorney for Defendants 6th/Vermont*
7 *RX Associates, LLC and Essex Property*
8 *Trust, Inc.*

1 THERESA L. KITAY (SBN 237311)
tkitay@bakerdonelson.com
2 BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC
3 3414 Peachtree Road, NE, Suite 1500
Atlanta, GA 30326
4 Telephone: 404-577-6000
Facsimile: 404-221-6501
5 *Attorney for Defendants 6th/Vermont*
RX Associates, LLC and Essex Property Trust, Inc
6
7

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **SOUTHERN DIVISION**

11 JOSE PERALES, an individual,

12 Plaintiff,

13 v.

14 6TH/VERMONT RX ASSOCIATES,
LLC, a California limited liability
15 company; ESSEX PROPERTY TRUST,
INC., a Maryland corporation, and
16 DOES 1-10,

17 Defendants.
18
19

Case No. 8:23-cv-02051

PROOF OF SERVICE

REMOVAL FILED:
NOVEMBER 1, 2023

[Originally Orange County Superior
Court, Case No. 30-2023-01349593-
CU-CR-NJC]

20 **PROOF OF SERVICE**

21 I am a resident of the State of Georgia, over the age of eighteen years, and not a party
22 to the within action. My business address is 3414 Peachtree Road, NE, Suite 1500,
23 Atlanta, Georgia 30326. On 11/01/23 I served the within document(s):
24

- 25 1) Defendants' Notice of Removal of Civil Action Pursuant to 28 U.S.C. Sections
26 1331, 1367, 1441, and 1446
27

1 on the interested parties in this action by transmitting true copies thereof addressed
2 as stated below:

3
4 Cody Cooper

5 Anoush Hakimi

6 Peter Shahriari

7 LAW OFFICES OF HAKIMI & SHAHRIARI

8 15760 Ventura Blvd., Suite 650

9 Encino, CA 91436

10 Tel: 888-635-2250

11 Email: cody@handslawgroup.com, anoush@handslawgroup.com,
12 peter@handslawgroup.com

13 X **(BY MAIL)**: I deposited such envelope in the mail at Atlanta, Georgia with
14 postage fully prepaid. I am readily familiar with this firm's Practice of
15 collection and processing correspondence for mailing. Under that practice it
16 would be placed for collection and mailing, and deposited with the U.S. Postal
17 Service on that same day with postage thereon fully prepaid at Atlanta, Georgia
18 in the ordinary course of business. I am aware that on motion of party served,
19 service is presumed invalid if postal cancellation date or postage meter date is
20 more than 1 day after date of deposit for mailing in affidavit.

21 ☐ **(VIA OVERNIGHT MAIL)**: I deposited such envelope to be placed for
22 collection and handling, via UPS following our ordinary business practices. I am
23 readily familiar with this business practice for collecting and processing
24 correspondence for UPS. On the same day that material is placed for collection, it
25 is picked up by UPS at Atlanta, Georgia.
26
27

1
2
3 **X (BY ELECTRONIC MAIL):** By transmitting a true copy thereof to the
4 electronic mail addresses as indicated above.
5

6 ☐ **(BY CM/ECF SERVICE):** I caused such document(s) to be delivered
7 electronically via CM/ECF as noted herein.
8
9

10 I am readily familiar with the firm's practice of collection and processing
11 correspondence for mailing and for shipping via overnight delivery service. Under that
12 practice, it would be deposited with the U.S. Postal Service on the same day with
13 postage or fees thereon fully prepaid in the ordinary course of business.
14
15

16
17 I declare under penalty of perjury under the laws of the United States and the State of
18 Georgia that the above is true and correct. Executed on 11/1/23 in Atlanta, Georgia.
19

20 Name: Sarah Toenes



21 Sarah Toenes
22
23
24
25
26
27
28